



C.R.P(PD)No.1689 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 1689 of 2021

and

CMP.No.13083 of 2021

Mathiyialagan

..Petitioner

Vs.

Loganathan

..Respondent

Prayer: Civil Revision Petition filed under Section 115 of C.P.C., against the fair and decreetal order made in IA.No.96 of 2019 in OS.No.16 of 2017 dated 19.01.2021 passed by the learned District Munsif-cum-Judicial Magistrate, Vedaranyam.

For Petitioner : Mr.G.Pugazhenth

For Respondent : Mr.W.Camyles Gandhi

ORDER

This revision is directed against the order dated 19.01.2021 passed by the Trial Court in IA.No.96 of 2019 in OS.No.16 of 2017.



C.R.P(PD)No.1689 of 2021

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2.The said application was filed by the respondent herein, seeking condonation of delay of 195 days in filing an application seeking to set aside the exparte decree that was passed on 14.06.2018. The suit is one for declaration that the settlement deed dated 20.08.2014 executed by the father of the plaintiff in favour of the defendant is invalid. Consequential injunction has also been sought for. The plaintiff and the defendant are brothers.

3.In the said suit, on 23.08.2017 an order has been passed setting the respondent / defendant exparte. Thereafter, the said suit came to be decreed exparte on 14.06.2018. The respondent / defendant filed an application for condonation of delay of 195 days in seeking to set aside the exparte decree. The respondent herein has, in the affidavit filed in support of the application, stated that he suffered from jaundice and he was not able to contact his counsel. The learned Trial judge had accepted the reason and had allowed the application on payment of costs.



C.R.P(PD)No.1689 of 2021

WEB COPY

4.I have heard Mr.G.Pugazhenthhi, learned counsel appearing for the petitioner and Mr.W.Camyles Gandhi, learned counsel appearing for the respondent.

5.Mr.G.Pugazhenthhi, learned counsel appearing for the petitioner would vehemently contend that the reason assigned for condonation of delay of 195 days cannot be deemed to be a sufficient reason. The learned counsel further contended that the Trial Judge has not assigned any reason for condoning the delay. This Court and Hon'ble Supreme Court have repeatedly held that the Courts must not be hypertechnical in considering applications for condonation of delay. The Hon'ble Supreme Court in **University of Delhi Vs. Union of India and Others** reported in **2019 SCC Online SC 1634** has quoted with approval, the earlier judgment of the Hon'ble Supreme Court in **Collector, Land Acquisition, Anantnag Vs. Katiji** reported in **(1987) 2 SCC 107** wherein, the Hon'ble Supreme Court had pointed out that the liberal approach should be adopted by the Courts in matters of condonation of delay.



C.R.P(PD)No.1689 of 2021

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6. Considering the nature of the suit, the prayer sought for and the length of the delay, I am of the opinion that the respondent herein has satisfactorily explained the delay. Moreover, the Trial Court has exercised its discretion in condoning the delay. Hence, I do not see any reason to interfere with the order of the Trial Court. This civil revision petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.11.2021

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C.R.P(PD)No.1689 of 2021

To:-

The District Munsif-cum-Judicial Magistrate,
Vedaranyam.



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C.R.P(PD)No.1689 of 2021

R.SUBRAMANIAN, J.

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C.R.P(PD)No. 1689 of 2021
and CMP.No.13083 of 2021



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C.R.P(PD)No.1689 of 2021

12.11.2021